

## REMARKS

In response to the Notification of Missing Requirements under 35 U.S.C. § 371 (Form PCT/DO/EO/905), Applicants submitted, on September 1, 2006 (with five-month extension), a Declaration naming Stephen Elledge and nine other inventors as co-inventors for this U.S. national stage application. The U.S. Designated / Elected Office responded on April 26, 2007 that the Declaration was defective, because Stephen Elledge was not named as an inventor in the PCT application US03/30901, based on which the instant U.S. national stage application was filed.

Applicants submitted on May 15, 2007 a Request under 37 C.F.R. § 1.497(d) to add Stephen Elledge as an inventor.

Upon reviewing the Request and the accompanying supporting documents, Attorney Advisor Anthony Smith (from the Office of PCT Legal Administration) rendered a **Decision on Request** on September 25, 2007, dismissing without prejudice Applicants' Request under 37 C.F.R. § 1.497(d). Mr. Smith argues that all the requirements of 37 C.F.R. § 1.497(d) have not been met, in that the two written consents by the assignees are defective. Specifically, Mr. Smith argues that the written consent of the assignees must be submitted in compliance with 37 C.F.R. § 3.73(b). The Consents submitted with the May 15, 2007 Request are allegedly not in compliance with 37 C.F.R. § 3.73(b), because the persons signing the Consents "does not have apparent authority to act on behalf of the assignee," and that the Consents does not "states that (the person signing the Consents are) authorized to act on behalf of the assignee."

In an attempt to clarify the issue, Applicants' attorney Yu Lu contacted Mr. Smith on January 15, 2008. Applicants do not necessarily agree with Mr. Smith's narrow interpretation of 37 C.F.R. § 3.73(b)(ii) to mean that only certain Officers of the Assignees (*i.e.*, Cold Spring Harbor Laboratory and Research Foundation of State University of New York in this case), such as President, CEO, *etc.*, have apparent authority to sign on behalf of the Assignees, while other officers (such as Director of Technology Licensing Office) do not. Applicants submit that 37 C.F.R. § 3.73(b)(ii) clearly sets forth that "an officer of the assignee" (emphasis added) has apparent authority to sign on behalf of the assignee. There is no apparent limitation as to which officer of the assignee qualify under 37 C.F.R. § 3.73(b)(ii).

However, to expedite prosecution, Applicants submit herewith two newly executed Consent by Assignees, each of which explicitly states under 37 C.F.R. § 3.73(b)(i) that the person signing the submission is authorized to act on behalf of the (respective) assignee(s).

Applicants further submit herewith several complete copies of Declarations, each executed by one or more inventors of the instant application.

Therefore, Applicants submit that all requirements under 37 C.F.R. § 1.497(d) have been met, and Applicants respectfully request the inventorship of this application be corrected accordingly, and that the Declaration be accepted under 35 U.S.C. § 371(c)(4).

Although Applicants believe no fees other than the ones listed in the accompanying fee transmittal are due, the Director is hereby authorized to credit any overpayment or charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. **18-1945**, under Order No. **CSHL-P01-011**.

Dated: February 25, 2008

Respectfully submitted,

By 

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